

SOUTH AFRICA / JUDGMENT

Makulala v Markos Bros (Pty) Ltd t/a Witfield Spar and Others (JR 441/2021) [2022] ZALCJHB 38 (8 March 2022) [2022] ZALCJHB 38

COURT

Labour Court Johannesburg

BEFORE

A van Niekerk

CASE / FILE NUMBER

JR 441/2021

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THE

LABOUR COURT OF SOUTH AFRICA

(HELD

AT JOHANNESBURG)

CASE NO: JR

441/2021

In

the matter between:

M.C
MAKULALA
Applicant
and
MARKOS
BROS (PTY) LTD T/A WITFIELD
SPAR
First Respondent
COMMISSIONER
L. MOKOENA
N.O
Second Respondent
THE
CCMA
Third Respondent
Date of judgment: 8
March 2022

JUDGMENT

VAN NIEKERK J

- [1] The applicant seeks leave to appeal against the judgment delivered by this court on 27 January 2022, where an application to review and set aside a condonation ruling issued by the second respondent was dismissed, on account of the fact that the review application had been filed out of time with no application to condone the late filing. In this application, the applicant appears to be assisted by the National Force Workers Union. At the hearing of the application, the applicant was assisted by her husband, who stated that he was an official of that union.
- [2] Be that as it may, the union now seeks leave to appeal on the applicant's behalf on the basis that the applicant be given 'a chance' to apply for condonation.
- [3] There is no basis on which leave to appeal should be granted. The review application was filed 49 days late, in circumstances where the ruling under review set out the requirements for condonation for the late filing of process, and where the applicant was assisted by a person who describes himself as a union official. He ought to have been aware of the period within which review applications must be filed, and the necessity of an application to condone the late filing of the review.
- [4] In any event, the application for review has no prospects of success. The founding affidavit in support of the application manifestly fails to make out a case for review, and comprises no more than a repetition of the submissions that were made to the second respondent. These were considered by the second respondent, who dismissed the application for condonation in a reasoned ruling in which the correct principles were applied to the facts.
- [5] In short, there is no compelling reason to grant leave to appeal, and the application stands to be dismissed.

I make the following order:

1. Leave to appeal is refused.

André van Niekerk

Judge of the Labour Court of South Africa

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